IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

MONDAY, THE 22ND JANUARY 2007 / 2ND MAGHA 1928

**LA.App..No. 588 of 2004()**

LAR.137/2002 OF PRINCIPAL SUB COURT,KOTTAYAM

APPELLANT: RESPONDENT:
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STATE OF KERALA.

BY GOVERNMENT PLEADER SRI.L.G.SURESH BABU

RESPONDENTS: CLAIMANT
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ELSAMMA, W/O.EMMANUEL,
VATTUKULATHIL PARAMBIL HOUSE,
KOTHANELLOOR KARA, KOTHANELLOOR VILLAGE,
VAIKOM.

BY ADV. SRI.RAJEEV V.KURUP

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 22/01/2007, ALONGWITH L.A.A.NO.41 OF 2005 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**K.T. SANKARAN, J.**

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**L.A.A.NOS.588, 925 & 964 OF 2004**

**and**

**L.A.A.NOS. 41 & 560 OF 2005**

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**Dated this the 22nd day of January,2007**

**JUDGMENT**

L.A.A.Nos.560 of 2005, 964 of 2004 and 925 of 2004 arise out of L.A.R.Nos.124 of 2002, 126 of 2002 and 142 of 2002, which were disposed of by a common judgment. L.A.A.Nos.588 of 2004 and 41 of 2005 arise out of L.A.R.Nos.137 of 2002 and 133 of 2002, which were disposed of by a common judgment along with several other connected cases. In L.A.R.No.124 of 2002 and connected cases, the court below relied on Ext.A1 judgment in L.A.R.No.133 of 2002. L.A.A.No.41 of 2005 arises out of L.A.R.No.133 of 2002.

2. **L.A.A.Nos.41 of 2005 and 588 of 2004**:- In L.A.R.No.133 of 2002, an extent of 1.39 Ares of land in Sy.No.456/13-6-1 of Kothanalloor village in Vaikom taluk was acquired. In L.A.R.No.137 of 2002, an extent

of 0.61 Ares of land in the same village was acquired. The acquisition was for the formation of Ettumanoor Distributory of Muvattupuzha Valley Irrigation Project. Notification under Section 4(1) was issued on 25.2.1999. Award was passed on 1.2.2002. The Land Acquisition Officer awarded a sum of Rs.16,580/- per Are as the land value, relying on Ext.R1 document dated 15.5.1996, wherein land value was shown at Rs.16,255/- per Are. The Land Acquisition Court granted enhancement of Rs.9,948/- per Are. L.A.R.No.127 of 2002 was disposed of along with L.A.R.No.133 of 2002 and connected cases. In that batch of cases, L.A.R.No.127 of 2002 was in respect of a different category of land, namely, category 1-A. All other cases, including L.A.R.Nos.133 of 2002 and 137 of 2002, were in respect of category No.II lands. The court below found that the land value awarded as per Ext.R1 document is less.

3. Before the court below, the claimants relied on Exts.A1 and A2 documents. As per Ext.A1 dated

27.3.1998, an extent of 42 cents of land was purchased by Sister Grace on behalf of a convent, for a sum of Rs.4,90,000/-. This works out to Rs.11,666/- per cent of land. Ext.A2 is another sale deed dated 23.8.1995, executed by AW2, assigning 15 cents of land at the rate of Rs.12,500/- per cent. The claimants contended that the acquired lands are more fertile and more important than Exts.A1 and A2 lands. According to the claimants, the basis land is situated 1.5 kms. away from the acquired land and the basis land does not have that much importance or value when compared with the acquired lands.

4. The acquired lands have no public road frontage. There are private roads in between the lands belonging to the claimants. It is further stated that the distance to Kottayam-Vaikom road is 500 metres. Kothanalloor town is at a distance of one kilometre from the property of the claimants. It has come out in evidence that institutions like State Bank of Travancore, L.P.School, High School, Higher Secondary

School, Village Office, Service Co-operative Bank, Post Office and Urban Service Co-operative Bank are situated in Kothanalloor town. According to the claimants, the acquired land would fetch a market value of Rs.15,000/- per cent. The properties acquired are dry lands in which improvements like coconut trees, teak trees and other miscellaneous trees were there. The court below found that Exts.A1 and A2 lands are situated in Kanakkari Village whereas the acquired lands are in Kothanalloor village. It has come out in evidence that these villages are on either side of a road and that the distance between the acquired lands and Exts.A1 and A2 properties is not much. The court below held that land value at the rate mentioned in Exts.A1 and A2 cannot be granted since they are not similarly situated lands. The basis document is dated 15.5.1996 and the land is situated 400 metres away from Nambiakulam junction in Ettumanoor - Vaikom road. The land value per Are would come to Rs.16,255/- as per Ext.R1 basis document. The Land Acquisition Officer had granted 20% enhancement on the value shown in Ext.R1 document in

the case of land in category 1-A and the land value fixed was Rs.19,506/-. 15% deduction was made from that figure in respect of the lands included in category No.II. The court below found that the amount awarded by the Land Acquisition Officer is low, though Exts.A1 and A2 documents were not as such relied on. The court below found that the acquired lands are in an important locality and that the lands have great potentiality. Taking into account all the facts and circumstances of the case and evidence on record, the court below granted enhancement at Rs.9,948/- per Are and this figure was arrived at by granting 60% enhancement on the value fixed by the Land Acquisition Officer. It cannot be said that the amount awarded by the Land Acquisition Court is excessive.

5. The learned counsel for the claimants pointed out that the Land Acquisition Court had granted 60% enhancement in several cases in respect of acquisition of lands for Muvattupuzha Valley Irrigation Project and such enhancement was approved by the Division Bench in

several Land Acquisition Appeals, including L.A.A.No.788 of 2004 (judgment dated 13.7.2006) and L.A.A.No.487 of 2003 (judgment dated 1.10.2004). In the light of the facts and circumstances mentioned above, I do not find any ground to interfere with the well considered judgment of the court below from which L.A.A.Nos.41 of 2005 and 588 of 2004 arose. Accordingly, L.A.A.Nos.41 of 2005 and 588 of 2004 are dismissed.

6. **L.A.A.Nos.560 of 2005, 964 of 2004 and 925 of 2004**:- These Land Acquisition Appeals arose out of a common judgment disposing of several Land Acquisition References. The court below relied on Ext.A1 judgment in L.A.R.No.133 of 2002. As against the judgment in L.A.R.No.133 of 2002, State had filed L.A.A.No.41 of 2005. By this judgment, I have dismissed L.A.A.No.41 of 2005. Therefore, these Land Acquisition Appeals are also liable to be dismissed.

In the result, all the Land Acquisition Appeals are dismissed. No order as to costs.

**(K.T.SANKARAN)**
**Judge**

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